

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

CHERYL KING

PLAINTIFF

V.

CIVIL ACTION NO.1:05CV675 LTS-RHW

**JAMES W. SMITH and
ALLSTATE INDEMNITY COMPANY**

DEFENDANTS

MEMORANDUM OPINION

An order of remand [32] was entered in this case on April 25, 2006. On May 1, 2006, Defendants Allstate Indemnity Company (Allstate) and James W. Smith (Smith) filed a motion to alter or amend the remand order. On June 6, 2006, the United States Magistrate Judge entered an order [45] granting the defendants' motion for a protective order and effectively staying discovery in this matter, pending a ruling on the defendants' motion to alter or amend.

On October 2, 2006, the defendants filed a motion to allow remand-related discovery. I have read and re-read the original complaint, the proposed amended complaint, the parties' supporting and opposing memoranda, and the affidavits and other materials submitted in support of and in opposition to all the pending motions. From my reading of these materials it appears to me that the parties should be allowed to conduct a limited amount of remand-related discovery in order to clarify the factual support for the plaintiff's claims against Smith.

Accordingly, I will permit the defendants to take the deposition of Cheryl King (King), and I will permit the plaintiff to take the deposition of Defendant Smith. Once these depositions have been completed, each party shall file the deposition excerpts they deem relevant to the motion to alter or amend, I will decide the motion to alter or amend before acting on any of the other pending motions.

I will allow the parties a period of sixty days within which to take these depositions. These depositions are permissive and not mandatory. If the plaintiffs do not wish to depose Smith, they will be under no obligation to do so. Likewise, if the defendants do not wish to depose King, they will be under no obligation to do so.

An appropriate order will be entered.

Decided this 7th day of December, 2006.

s/ *L. T. Senter, Jr.*
L. T. Senter, Jr.
Senior Judge